

## REMARKS

Claims 1-8 are currently pending in the application. The status of the claims, taking into account this reply, is as follows:

Claim 1 has been amended; and

Claims 2-8 remain unchanged.

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Claims 1-8 have been rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,319,338 to Kawano (hereinafter referred to as “the ‘338 patent”).

Independent claim 1 is directed to a method for producing a steel alloy with retained austenite that comprises: (a) providing a steel alloy, (b) annealing the steel alloy at an annealing temperature to produce initial austenite in the steel alloy, (c) quenching the annealed steel alloy at a temperature to transform a portion of the initial austenite into martensite and to leave remaining austenite that is less than the initial austenite, (d) carbon partitioning the steel alloy to transfer carbon from the martensite to the remaining austenite sufficient to produce stable or metastable retained austenite and carbon-depleted martensite, and (e) cooling the steel alloy with the retained austenite to a desired temperature.

The ‘338 patent is directed to high-strength steel sheets and a method for producing such sheets. The method involves subjecting a cold-rolled steel sheet to: (a) an annealing step to produce austenite in the sheet, (b) a primary cooling step to promote the transformation of some of the austenite to ferrite and to concentrate carbon in the untransformed austenite (i.e., the austenite that has not been transformed to ferrite) to stabilize this remaining austenite, (c) a secondary cooling step that apparently transforms some of the stabilized austenite into martensite, thereby leaving a lesser amount of the stabilized austenite, (d) a temperature processing step in which a portion of the remaining austenite is transformed to bainite to further increase the carbon concentration in the austenite, which presumably further stabilizes the austenite, and (e) a final cooling to room temperature. See col. 13, line 50 through col. 15, line 12.

The stabilization of the austenite in the ‘338 patent occurs in two steps, the primary cooling step and the temperature processing step. Apparently, both of these steps are needed to have sufficient stabilized austenite. In contrast, the carbon partitioning of the claimed invention

requires the transfer of carbon to the austenite sufficient to produce stable or metastable retained austenite. Further, while the method '338 patent involves the transformation of austenite into martensite, there is no teaching or suggestion of carbon partitioning of the martensite to provide carbon to stabilize the austenite. Rather, the '338 patent indicates that it is desirable to have martensite for high flow stress during deformation, a lower yield rate, and an improved work hardening coefficient. See col. 5, lines 30-48 and col. 9, lines 17-38. Consequently, the '338 patent suggests that it would be undesirable to use martensite to provide carbon to stabilize austenite because doing so would reduce the martensite in the steel, thereby adversely affecting the high flow stress during deformation, lower yield rate, and work hardening coefficient characteristics of the steel. Additionally, the '338 patent indicates that bainite transformation is used to increase the carbon concentration in the austenite. In contrast, the claimed invention utilizes carbon partitioning to transfer carbon from martensite to austenite sufficient to produce stable or metastable retained austenite and carbon-depleted martensite. Based on the foregoing, the '338 does not teach or suggest the carbon partitioning step of claim 1 or the carbon partitioning step in combination with any of the other steps of claim 1.

The assignee of the application respectfully submits that independent claim 1 is patentable and the allowance thereof is earnestly solicited.

Each of claims 2-8 is a dependent claim that depends either directly or indirectly from one of independent claim 1. Consequently, each of these dependent claims is at least allowable for the reasons noted with respect to the independent claim from which it depends. However, each of these dependent claims may be allowable for additional reasons, and the applicant reserves the right to assert any such reason in the future.

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No claim related fees are believed to be due with this response. In the event any such fees are due, please debit Deposit Account 08-2623.

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In the event that a petition for extension of time under 37 CFR §1.136(a) is required to have this reply considered and such a petition does not otherwise accompany this reply, please consider this a petition for an extension of time for the required number of months and authorization to debit Deposit Account 08-2623 for the required fee.

The application now appearing to be in form for allowance, reconsideration and allowance thereof is respectfully requested. If a telephone conversation will further the prosecution and/or expedite allowance, the examiner is invited to contact the undersigned attorney.

Respectfully submitted,

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